IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. A No.307 of 2000

Date of decision : October 8, 2007

Bangalu **...Appellant.**

Versus

Ganga Ram **…Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the Appellant : None.

For the Respondent : None.

Surjit Singh, Judge(Oral)

The present appeal is directed against the judgment of the trial Magistrate whereby respondent-accused Ganga Ram, against whom a complaint for offences punishable under Sections 463 and 197 of the Indian Penal Code was filed by appellant/complainant Bangalu, has been acquitted.

2. It was alleged in the complaint filed by the appellant that the respondent filed an affidavit before the Executive Engineer that the deponents (the persons by whom the affidavit is purported to have been sworn) had no objection to the construction of the road through their land and they would claim no compensation for the utilization of their land for construction of such road. The affidavit is purported to have been sworn by 14 persons. The complainant alleged that his purported signature on the affidavit was not genuine and similarly the purported signatures of one Shyam Lal and one Trahru Ram were also not genuine and these signatures had been forged by the respondent.

Whether reporters of the local papers may be allowed to see the judgment?

3. Complainant adduced preliminary evidence and appeared as a witness while leading such evidence. Trial Magistrate summoned the respondent. Thereafter, the respondent was charged with the offences punishable under Sections 365, 368 and 197 of the Indian Penal Code. Appellant was then called upon to lead his evidence. He did not enter the witness box and stated that the statement made by him, while leading preliminary evidence, be read as his evidence. Respondent did not cross-examine him with respect to the said statement. It was argued at the time of the final hearing that there being no statement of the complainant or other witnesses examined at the time of the leading of the preliminary evidence, their statements could not have been read as evidence in support of the charge framed against the respondent. The argument found favour with the trial Magistrate. Trial Magistrate appreciated the rest of the evidence and acquitted the respondent.

4. Since nobody has put in appearance either for the complainant or the respondent, I have perused the record myself. I find that even if the view taken by the Magistrate be ignored, with respect to the non-appearance of the complainant in the witness box after the framing of the charge, still there is no evidence proving the charge against the respondent. Respondent purportedly signed the affidavit as an identifier of the documents. No evidence has been led to show that the purported signature of the respondent, as an identifier of the deponents, is his signature. Matter was sent to the handwriting expert for comparison but his opinion was not sought with respect to the purported signature of the respondent as an identifier on the affidavit. Therefore, it cannot be said, even if it be assumed that some signatures on the affidavit are forged, that the respondent

was in any way instrumental in forgery of such signatures. Furthermore, the original affidavit was not produced on record. Also, some of the persons examined as witnesses stated that their signatures were genuine.

5. In view of the above stated position, the appeal is dismissed and acquittal of the respondent, as recorded by the trial Magistrate, is upheld.

October 8, 2007(sd) **(Surjit Singh), J**